


December 9, 2022

VIA ECF

The Honorable Lorna G. Schofield
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Application GRANTED. A scheduling order will be entered separately.

Dated: December 12, 2022
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE

Re: *Harrington Global Opportunity Fund, Limited v. CIBC World Markets Corp., et al.*,
No. 1:21-cv-00761 (LGS) (S.D.N.Y.)

Dear Judge Schofield:

We write pursuant to the Court's November 30, 2022 Order, ECF No. 128, to submit the attached joint stipulation and proposed order setting forth a schedule for the filing of the Second Amended Complaint ("SAC") and briefing on Defendants' anticipated motion to dismiss and to describe the reasons the parties believe that the most efficient course is that the Defendants' motion to dismiss be resolved before the parties proceed with depositions.

The parties respectfully submit that proceeding with depositions before testing the SAC would result in a substantial and inefficient expenditure of time, effort, and resources. Discovery to date has focused solely on allegations in the First Amended Complaint ("FAC")—i.e., whether Defendants engaged in spoofing trades for their own accounts and economic benefit. Indeed, the Court denied Harrington's motion to compel information on trades and orders placed by Defendants on their customers' behalf, finding that Harrington had "not articulated any plausible theory under which any currently named Defendant is liable for their customers' trading activity." ECF No. 120 at 4.

If the parties depose any witnesses now, such depositions risk being a wasted effort because they would focus only on alleged spoofing by Defendants on their own behalf as alleged in the FAC.¹ If the SAC, which adds allegations relating to trading initiated by customers, survives Defendants' motion to dismiss, there is a substantial risk that some witnesses will need to be deposed a second time concerning such trading. A second round of depositions of the same witnesses would place substantial burden on all parties and especially the witnesses themselves, particularly where so many of the relevant witnesses are former employees.

To limit the substantial burden imposed by conducting fact depositions on potentially irrelevant allegations and claims (and at least one party) under the existing complaint, and to avoid potentially duplicative efforts if the SAC survives dismissal, the parties agree that, consistent with the Private Securities Litigation Reform Act, an immediate stay of discovery pending resolution of Defendants' motion to dismiss is the most efficient path forward.

¹ Such depositions also would unduly burden CIBC World Markets Corp., which is no longer named as a Defendant in the SAC.

The parties are available to discuss at the Court's convenience.

Respectfully submitted,

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